

SENATE BILL 1756

By Beavers

AN ACT to amend Tennessee Code Annotated, Section 39-17-1314, relative to state preemption of weapons regulation.

WHEREAS, it is the intent of the State of Tennessee to reserve and reclaim to itself the complete and exclusive power and authority to regulate by statute, to the extent constitutionally permissible, the entire field of regulations of arms, including but not limited to firearms, and to declare absolutely void those laws, ordinances, rules and/or regulations which were not or hereafter are not enacted by the General Assembly of the State of Tennessee, now therefore, BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 39-17-1314, is amended by deleting subsection (a) and substituting instead the language:

(a) The state reserves to itself the entire field of regulation within the state of all arms and weapons, including, but not limited to, the possession, use, ownership, purchase, sale, acquisition, transfer, taxation, discharge, transportation and manufacture of arms, weapons, firearms, ammunition, edged weapons and all accessories. Any laws, regulations, ordinances, or enactments, other than those enacted by the general assembly, including but not limited to local laws, regulations or ordinances, whether now existing or hereinafter enacted, are void.

SECTION 2. Tennessee Code Annotated, Section 39-17-1314, is amended by deleting subsection (e) and substituting instead the language:

(e) Notwithstanding subsection (a), other governmental entities, including local governments and subdivisions of state government, may enact ordinances, rules and

regulations relative to the use or possession of arms by individuals directly employed as government officials while acting within the course and scope of their official duties.

SECTION 3. Tennessee Code Annotated, Section 39-17-1314, is amended by adding a new subsection (f):

(f) Notwithstanding subsection (a), other governmental entities, including local governments and subdivisions of state government, may enact ordinances, rules and regulations relative to arms only to the extent expressly authorized by state statute.

SECTION 4. Tennessee Code Annotated, Section 39-17-1314, is amended by adding a new subsection (g):

(g) Notwithstanding any other law, any enactment including any statute, rule, regulation, ordinance or order having the effect to create or maintain any registry or database of civilians who privately own or possess firearms or of firearms privately owned or possessed by civilians which registry or database is owned, maintained or used by any government entity or official is prohibited. Any court of record in the state has jurisdiction to enforce this prohibition in an action brought under this section. This prohibition shall not apply to registries or databases of:

(1) Stolen firearms that have not been recovered;

(2) To firearms while in the possession of the government as evidence in criminal actions; or

(3) To privately owned firearms where the then current owner has expressly consented to the temporary inclusion of the firearm in a government database or registry.

SECTION 5. Tennessee Code Annotated, Section 39-17-1314, is amended by adding a new subsection (h):

(h) Pursuant to the sovereignty of this state and the restrictions imposed by the United States Constitution on the federal government, all federal laws, ordinances, rules and regulations relative to the rights of citizens, residents and civilians within this state

concerning or in any way relative to arms or the power of this state to exclusively regulate the entire field of arms within the boundaries of this state are declared void.

SECTION 6. Tennessee Code Annotated, Section 39-17-1314, is amended by adding a new subsection (i):

(i) Any person, including any entity or organization whose membership is adversely affected by any governmental enactment or action in violation of this section, may file suit against the governmental entity for any actual damages, declaratory relief, injunctive relief and civil rights violations. If the governmental enactment or action was a discretionary determination by one (1) or more individuals, then those individuals may be named as parties to the action as well and shall not rely on any claim of sovereign immunity for purposes of such action. If the court issues any injunction or grants any declaratory or other relief against a governmental entity in any such suit, the court shall also award to the non-governmental party:

(1) Reasonable attorney's fees and all costs which award shall take into positive consideration in such determination whether the action was brought on a contingency basis; and

(2) Expert witness fees and expenses.

SECTION 7. This act shall take effect immediately upon becoming law, the public welfare requiring it.